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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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EXAMINER
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SAFAVI, M	
ART UNIT	PAPER NUMBER

3635  
DATE MAILED:

11/05/01

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**Please find below and/or attached an Office communication concerning this application or proceeding.**

**Commissioner of Patents and Trademarks**

# Office Action Summary

Application No.  
**09/597,351**

Applicant(s)

**Bunte**

Examiner

**Michael Safavi**

Art Unit

**3635**



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on Aug. 13, 2001
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claims \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.
- 11) ☒ The proposed drawing correction filed on Aug. 13, 2001 is: a) ☐ approved b) ☒ disapproved.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- a) ☐ All b) ☐ Some\* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \*See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

## Attachment(s)

- 15) ☐ Notice of References Cited (PTO-892) 18) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 16) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 19) ☐ Notice of Informal Patent Application (PTO-152)
- 17) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_ 20) ☐ Other:

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*Drawings*

1. The proposed drawing correction and/or the proposed substitute sheets of drawings, filed on August 13, 2001 have been disapproved. The proposed drawing correction appears to contain inconsistencies both within the drawing itself and between the drawing and specification. For example, numeral 12 appears to depict two different features while there appears no numeral 15 in the specification.

2. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the “outer peripheral border region...in a latched state” and the “free gap...being open toward said border region, bounded inwardly by said inner contour and by said expansible shaped element and having a shape corresponding substantially to said shaped element” and “latching devices integrally formed on an outer border of one of said half-shells” must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

*Claim Rejections - 35 USC § 112*

3. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

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4. Claims 1-10 are rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The specification does not appear clear and complete as to the "outer peripheral border region...in a latched state" as is presented in claim 1. Nor does the specification appear clear and complete as to a "free gap...being open toward said border region, bounded inwardly by said inner contour and by said expansible shaped element and having a shape corresponding substantially to said shaped element". Nor does the specification appear clear and complete as to "latching devices integrally formed on an outer border of one of said half-shells".

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6. Claims 1-10 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1, lines 12-13, what particularly is being defined by "outer peripheral border region...in a latched state"? The specification does not appear clear as to such limitation. Or, are the half-shells not in a latched state? In other words, is latched merely an intended assembly? Lines 12-15, what particularly is being defined by "free gap...being open toward said border region, bounded inwardly by said inner contour and by said expansible shaped element and having

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a shape corresponding substantially to said shaped element”? The specification does not appear clear as to such limitation(s).

Claim 5, line 5, “said latching devices” lacks an antecedent within the claim. Lines 5-6, what, specifically, does “...disposed within said inner contour and said region of said second half-shell” define? Would not the latching devices be disposed upon the “inner contour” or upon “said region of said second half shell”?

Claim 8, it is not clear as to how latching devices are disposed upon an “outer border of one of said half-shells”. The specification appears to define the latching elements as upon a central inner surface of each half-shell.

### *Claim Rejections - 35 USC § 102*

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371© of this title before the invention thereof by the applicant for patent.

8. Claims 1 and 9-12 are rejected under 35 U.S.C. 102(b) as being anticipated by Miura et al.

Miura et al. shows, Fig. 4, retaining device formed by two half-shells 12/14 and 16/11 with an

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expansible shaped element 15 of a contoured ring-like plate inserted within the retaining device.

The expansible element expanding under the influence of heat.

9. Claims 1-9, 11, and 12 are rejected under 35 U.S.C. 102(b) as being anticipated by Hull et al. Hull et al. shows, Fig. 2, retaining device formed by two half-shells 20 and 16 with an expansible shaped element, (seen along either side of latching means 18), of a contoured ring-like plate inserted within the retaining device. Latching devices 40/48 and 18 are disposed on inner surfaces, ("outer surface" or "outer border"?), of the half shells with element 18 possessing a mushroom-shape at 38. Latching cylinder being at 40/48.

10. Claims 1-9, 11, and 12 are rejected under 35 U.S.C. 102(b) as being anticipated by Berdan et al. Berdan et al. shows, Fig. 8, retaining device formed by two half-shells 36c and 24c with an expansible shaped element 110 of a contoured ring-like plate inserted within the retaining device. Latching devices 102/104 and 84 are disposed on inner surfaces, ("outer surface" or "outer border"?), of the half shells with element 102/104 possessing a mushroom-shape at 106/108. Latching cylinder being at 84/96.

### ***Response to Arguments***

11. Applicant's arguments filed August 13, 2001 have been fully considered but they are not persuasive. Applicant's remarks do not serve to shed light on the deficiencies set forth in the

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rejection under 35 U.S.C. 112, first paragraph. How, for example, is the “outer peripheral border region...in a latched state”? And, how is a “free gap...open toward said border region, bounded inwardly by said inner contour and by said expansible shaped element and having a shape corresponding substantially to said shaped element”? Such does not appear to be described within the specification. Or, how are the “latching devices integrally formed on an outer border of one of said half-shells” when the specification appears to define the latching elements as upon a central inner surface of each half-shell?

Applicant’s remarks at lines 16-19 on page 7 of the response has been noted. As such, the language of claim 1 has been interpreted as not possessing a latch or latching device.

As for Applicant’s arguments to “expansible”, such term would read upon any member or element which may expand in any form or manner. Thus, the element 110 of Berdan et al., (e.g., resilient spacer), as well as the foamed elements on either side of latching means 18 of Hull et al., would serve to read upon “expansible”. And, Miura et al. does disclose a member or material which expands to form upon the application of heat. Otherwise, Applicant’s arguments, (including those presented within the last paragraph on page 10 of the response), would appear to be directed to a method of assembly which would not serve to distinguish over the applied prior art.

12. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

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A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to M. Safavi whose telephone number is (703) 308-2168.



**MICHAEL SAFAVI  
PRIMARY EXAMINER  
ART UNIT 354**

M. Safavi  
November 2, 2001